

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.8509 of 1997

WITH

SPECIAL CIVIL APPLICATION No.8510 of 1997

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For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

TALUKA DEVELOPMENT OFFICER

Versus

NASIRKHAN NADIRKHAN PATHAN

Appearance:

MR MUKESH R SHAH for Petitioners

MR PF MAKWANA for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 18/11/98

COMMON ORAL JUDGEMENT :

Rule.

2. Both these Special Civil Applications are disposed of by this common order. The respondent workman was appointed as work charged employee purely on temporary basis. He was removed in the year 1988, which gave rise to industrial dispute culminating in reference

to the Labour Court, Godhra. Along with the petitioner there were three more workmen and therefore, the Labour Court by award dated 14.7.1993 directed in all the cases to reinstate them with full back wages.

3. The State Government preferred an application under sec.26A of the Gujarat Industrial Disputes Rules, 1966 (hereinafter referred to as "the Rules of 1966"). This application has been rejected by order dated 24.8.1994. Since that application was dismissed in default and therefore, another application was filed which was rejected by order dated 1.9.1997, on the ground that second application was not maintainable.

4. It is not in dispute in case of other three workmen the reference has been restored on payment of cost of Rs.2500/- to each of the workman. Considering all the facts and circumstances of the case, in my view, the reference in question qua the respondent workman also requires to be reopened, on payment of just cost.

5. In view of the aforesaid both these Special Civil Applications are allowed and the ex parte award dated 14.7.1993 passed by the Labour Court, Godhra, as well as rejecting the application under Rule 26A of the Rules of 1966 by order dated 1.9.1997, are quashed and set aside, subject to payment of cost of Rs.7000/- (Rupees seven thousand only) to the respondent workman. The petitioner shall pay or deposit Rs.7000/- in the Labour Court on or before 7.12.1998. These Special Civil Applications are allowed in peculiar facts and circumstances of the case. The parties shall appear before the Labour Court on 7.12.1998. Two months time from today is granted for payment of costs. Rule is made absolute to the aforesaid extent in each of the petition. Direct service is permitted.

karim*